



General Assembly

Substitute Bill No. 223

February Session, 2016



**AN ACT CONCERNING LIENS FOR UNPAID EMPLOYEE WAGES AND
DISCIPLINARY SUSPENSIONS FOR HARASSMENT OR WORKPLACE
VIOLENCE.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2016*) (a) Whenever an
2 employee is aggrieved by an employer's failure to pay wages in
3 violation of section 31-68 or 31-72 of the general statutes, the Labor
4 Commissioner or the employee shall have a lien on any property, real
5 or personal, in which such employer has an interest to enforce
6 payment of such wages with costs and such reasonable attorney's fees
7 that may be allowed by the court pursuant to said sections.

8 (b) To establish a lien for unpaid wages under this section, the Labor
9 Commissioner or the employee shall serve notice of such lien by
10 certified mail with a return receipt requested or by priority mail with
11 delivery confirmation to the employer that failed to pay such wages.
12 Such notice of lien shall contain such information as will identify (1)
13 the owner of the property upon which the lien is claimed, (2) the
14 residence or business address of such owner, (3) the specific property
15 claimed to be subject to such lien, (4) the location of such property, (5)
16 the amount of wages and accrued penalties and interest, including
17 reasonable attorney's fees, claimed to be due the employee in relation
18 to the lien, and (6) the pay period or periods for which such lien is

19 claimed. Such lien shall be filed not later than one year after the final
20 pay period in which such wages were due and shall attach and become
21 perfected at the time when notice of such lien is filed pursuant to the
22 filing provisions of part 5 of article 9 of title 42a of the general statutes.

23 (c) An employer may dispute such lien by filing a complaint in
24 small claims court or the Superior Court where the employer's
25 property is located not later than thirty days after notice was served on
26 the employer. A complaint under this section shall include (1) a copy
27 of the notice served pursuant to subsection (b) of this section, and (2) a
28 statement of any defense to the lien for unpaid wages with an affidavit
29 containing a statement of facts that support such defense. Not later
30 than forty-five days after receiving such complaint, the court shall
31 determine whether to issue an order establishing such lien and shall
32 provide written notification to the employer and to the Labor
33 Commissioner or the employee of such determination. On request of
34 the employer or the commissioner or the employee, the court may hold
35 an evidentiary hearing prior to making such determination.

36 (d) A lien is established under this section after the court provides
37 written notification to the employer and to the Labor Commissioner or
38 the employee of such determination, provided such employer does not
39 file an appeal of such determination within thirty days after receiving
40 such determination. Such lien shall be effective for a period of ten
41 years from the date of filing unless extinguished or discharged as
42 provided in subsection (f) of this section.

43 (e) An action to recover unpaid wages by the Labor Commissioner
44 or the employee shall be deemed an action to foreclose upon any
45 property subject to a lien established under this section. In any
46 judgment resulting from such action, the court may order the sale or
47 the transfer to the employee of title or possession of any property
48 subject to such lien. Any property subject to such lien may be
49 foreclosed upon at any point after a judgment for unpaid wages is
50 issued.

51 (f) A lien established under this section shall be extinguished upon
52 expiration of the limitations period applicable to any claim for unpaid
53 wages if no action to recover such wages is commenced prior to the
54 expiration of such limitations period. If judgment is entered in any
55 action to recover unpaid wages, the lien shall be extinguished upon
56 expiration of the applicable appeals period if no appeal is filed. If an
57 appeal is filed, the lien shall remain in force until all issues on appeal
58 have been decided. When the amount of unpaid wages with respect to
59 which a lien has been created under this section has been satisfied, the
60 Commissioner of Revenue Services, upon request of any interested
61 party, shall issue a certificate discharging such lien, which certificate
62 shall be filed with the Uniform Commercial Code Division of the office
63 of the Secretary of the State in the same manner as termination
64 statements are filed under section 42a-9-513 of the general statutes.

65 (g) Notwithstanding any provision of the general statutes, a lien
66 established and perfected under this section has priority over the
67 rights of any purchaser of any property of the employer, including any
68 bona fide purchaser under 11 USC 545(2), and over all other debts,
69 judgments, decrees, liens or mortgages against the employer, including
70 a lien by a commercial lending company, regardless of whether these
71 debts, judgments, decrees, liens or mortgages originated before or after
72 the wage lien, and regardless of whether these debts, judgments,
73 decrees, liens or mortgages were perfected prior to the wage lien. The
74 Labor Commissioner's or the employee's lien is effective against the
75 employer and the estate of the employer.

76 (h) A wage lien against real property may be recorded with the
77 town clerk for the town in which any portion of the employer's
78 property is located. A wage lien against personal property may be
79 recorded in the same manner as a financing statement is filed with the
80 Secretary of the State.

81 (i) Nothing in this section shall be construed to prevent the Labor
82 Commissioner or the employee from exercising any right or seeking
83 any remedy to which he or she may otherwise be entitled under any

84 state or federal law.

85 Sec. 2. (NEW) (*Effective from passage*) (a) For purposes of this section,
 86 "employer" has the same meaning as provided in section 31-58 of the
 87 general statutes, and "employee" means any individual employed or
 88 permitted to work by an employer.

89 (b) If an employee employed in a bona fide executive,
 90 administrative or professional capacity, as defined in the regulations of
 91 the Labor Commissioner issued pursuant to section 31-60 of the
 92 general statutes, is absent from work as a result of a disciplinary
 93 suspension for violating a written workplace conduct rule prohibiting
 94 harassment or workplace violence, the employer may deduct from the
 95 wages of such employee an amount equal to the wages that would
 96 have been paid for the number of days such employee is absent.

97 (c) The Labor Commissioner may adopt regulations, in accordance
 98 with the provisions of chapter 54 of the general statutes, as the
 99 commissioner deems necessary to implement the provisions of
 100 subsection (b) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>from passage</i>	New section

LAB Joint Favorable Subst.